IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 10559 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMCHANDBHAI BAANTKUMAR LAKHISARANI

Versus

STATE OF GUJARAT THRO' DIPEN NAREN CHANCHANI

Appearance:

1. Criminal Misc.Application No. 10559 of 2003

MR ABHAYKUMAR P SHAH for Petitioner No. 1

MR PR ABICHANDANI APP for Respondent No. 1

M/S THAKKAR ASSOC. for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 21/12/2004

ORAL JUDGEMENT

1. Heard learned Advocate Mr. Abhaykumar P.Shah for

petitioner, learned APP Mr.PR Abichandani for respondent No.1 and learned Advocate Mr.Haresh Joshi for M/s Thakkar Associates for Respondent No.2 . RULE. waived by learned APP for respondent No.1 State and leaned Advocate Mr. Haresh Joshi for respondent No.2.

2. Leaned counsels request to hear this matter finally because a settlement has been arrived at between the parties.

3. Learned Advocate for the petitioner Mr. Shah submits on record a Memorandum of Understanding between the parties as signed by General Manager of Saurashtra Fuel Pvt. Ltd and Mr.Ramchandbhai Vasantkumar Lakhisarani, Proprietor of M/s. Pushpa Traders.

4. Present respondent No.2 filed a criminal case against the present petitioner being Criminal Case No. 4364 of 2003 in the Court of Judicial Magistrate, First Class at Probandar, under Section 138 of the Negotiable Instruments Act, which was registered and process was issued by learned JMFC, vide his order dated 25th of April, 2003.

5. Learned Counsels for the parties under instructions state that the matter is settled and the amount of cheque subject matter of the complaint is given to respondent No.2 by way of demand draft. In this view of the matter, according to learned counsels for the parties, Criminal Case No. 4364 of 2003 is required to be quashed on account of settlement arrived at between the complainant and the accused i.e. petitioner.

6. Memorandum of Understanding as submitted by learned Advocate for the petitioner is taken on record. In view of the ratio laid down by the Apex Court in the matter of B.S. JOSHI vs. STATE OF HARYANA, as reported in AIR 2003 SC 1382 and in view of the amended Section 147 of the Negotiable Instruments Act, in peculiar facts and circumstances of this case on account of settlement between the parties, Criminal Case No.4364 of 2003 filed in the court of Judicial Magistrate, First Class at Porbandar, is required to be quashed.

7. In the result, this Application is allowed. Criminal Case No. 4364 of 2003 pending before the Judicial Magistrate, First Class, at Porbandar filed by present respondent No.2 against present petitioner is hereby quashed and all other proceedings taken in pursuance of the said criminal complaint are also stand quashed. Rule is made absolute to above extent. DS

permitted.

(J.R. Vora, J.)
p.n.nair